



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 9, 2002, 8:00 p.m.

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Jimenez.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PRESENTATION: Pride in Hayward Award.

The July Pride in Hayward Award recipients were all from the Santa Clara Neighborhood. They were Laurie Alvarez, Rosalia Gutierrez, Jose and Alicia Reynoso, Jose and Angela Garcia, and David and Jody Hady. Mayor Cooper congratulated all of these residents and thanked them for the continuing effort to make Hayward a more beautiful City.

PUBLIC COMMENTS

Beatrice Thornton discussed the need for a by-pass through Hayward. She very forcefully stated her position in support of the Hayward Route 238 by-pass.

Jason Moreno displayed photographs of several historic homes that were preserved in St. Augustine, Florida. He encouraged the same preservation here in the City of Hayward. He also discussed the safety measures one can take to prevent sexual assaults.

Barbara Swarr commented on redevelopment in the City as well as the need for improved landscaping in the area. She did various comparisons between the City of Hayward property and other places in the area.

Council Member Rodriquez commented that these properties should be reported to Community Preservation.

Judy Nadrowski showed a photo of her house and commented how she cleans and scrubs her house three times a year to remove scum that accumulates from the pollution emitted by the many cars and trucks on Foothill Boulevard. She asked the City not to widen Foothill. She also asked that some type of health monitor be placed near her house, and for additional police enforcement of speeding cars.

DRAFT

Roy Gordon discussed his application to be appointed to the City's Economic Development Committee. He also read the letter he attached to his application. He then asked to be reconsidered for a position on the committee.

BOARDS AND COMMISSIONS

1. Confirm Appointments and Reappointments to the Various Boards and Commissions

Staff report submitted by City Clerk Reyes, dated July 9, 2002, was filed.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to adopt the following:

Resolution 02-098, "Resolution Confirming the Appointment and Re-Appointment of Members to Advisory Boards and Commissions"

City Clerk Reyes then administered the Oath of Office to all of the new appointees.

CONSENT

2. Approval of Minutes of the City Council Meeting of July 2, 2002

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to approve the minutes of the City Council Meeting of July 2, 2002.

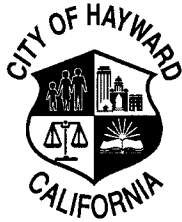
HEARINGS

3. Consolidated Landscaping and Lighting District No. 96-1, Zones 1-9, Approve the Engineer's Reports and Order the Levy of Assessments for FY 2002-2003

Staff report submitted by Development Review Engineer Gaber, dated July 9, 2002, was filed.

Development Review Engineer Gaber described the District reporting that there are nine zones now. Zones 4 and 5 were proposed to have their assessment formulas modified. Benefit Zone 4 was proposed to be adjusted to allow for an automatic increase on an annual basis. He then described the changes in the Assessment Formula. The homeowner's had the opportunity to vote on the increase.

Council Member Henson asked whether those residents in Zone 5 understood that the reserves from the developer were covering the needs of the Assessments.



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Development Review Engineer Gaber commented that he had not heard from any of those residents in Zone 5, nor in Zone 4.

Council Member Ward asked whether the City Council had been asked to approve an annual Consumer Price Index (CPI) increase prior to this meeting. Development Review Engineer Gaber said an election was held last year. However, the residents opposed it, so it was not implemented.

Council Member Ward asked whether the City had the ability to assess above the annual CPI in case of catastrophic conditions.

Development Review Engineer Gaber responded that in a catastrophic situation the City of Hayward would need to ask for an increase through another vote of the residents.

Council Member Dowling commented on Zone 3 and the planting in the area.

Development Review Engineer Gaber commented that City staff has prepared an implementation plan for that area. It will take a substantial increase in assessments to design and implement those plans.

Mayor Cooper opened and closed the public hearing at 8:35 p.m. There were no speakers.

In announcing the vote, Development Review Engineer Gaber stated that none of the increases were approved. Therefore, the Engineer's Report would be modified to reflect that the current Assessments remain.

It was moved by Council Member Dowling, seconded by Council Member Rodriquez, and unanimously carried to adopt the following:

Resolution 02-101, "A Resolution Confirming Diagram and Assessment and Ordering Levy of Assessment for Fiscal Year 2002-2003 for Zones 1 Through 4 and 6 Through 9 of the Consolidated Landscaping and Lighting Assessment District No. 96-1"

Resolution 02-102, "Resolution Denying Automatic Annual Allowance for Consumer Price Index Adjustment for Zone 4 of the Consolidated Landscaping and Lighting Assessment District No. 96-1"

4. Maintenance District (MD) 1, Approve the Engineer's Reports and Order the Levy of Assessments for FY 2002-2003

DRAFT

Staff report submitted by Assistant Planner Koonze, dated July 9, 2002, was filed.

Development Review Engineer Gaber described the area and recommended approval of the Engineer's Report.

As there were no requests to speak, Mayor Cooper opened and closed the public hearing at 8:38 p.m.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 02-099, "Resolution Approving the Engineer's Report, Confirming the Assessment Diagram and Assessment, and Ordering Levy and Collection of Assessment for the 2002-03 Fiscal Year, Maintenance District No. 1, Storm Drain Pumping Station and Storm Drain Conduit – Pacheco Way, Stratford Road, and Ruus Lane (MD No. 1)"

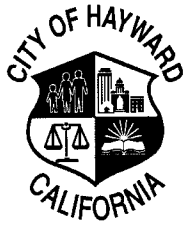
5. Text Amendment No. 2002-0241 – Proposed Amendment to the Definition of Hotels and Motels – David Davenport for Extended Stay America (Applicant)

Staff report submitted by Associate Planner Pearson, dated July 9, 2002, was filed.

Principal Planner Patenaude gave the staff report indicating the Extended Stay America was proposing to demolish the Southland Cinema building as the site for their proposed facility. However, staff realized that the City Zoning Ordinance does not allow for the type of hotel they are proposing. The current definition for a hotel states that there shall be no provision for cooking in any individual guest room or suite. This does not preclude a wet bar nor a microwave. He explained the new definition for extended stay lodgings. He discussed the reasons for this type of service and the need for these hotels. He pointed out several things the text amendment does not do, such as precluding other hotels to provide similar facilities and amenities. This definition also ties them all to the existing Municipal Code regulations. This is simply to allow another type of hotel to locate in the City of Hayward.

Council Member Henson asked whether at present a hotel stay is limited to 30 days. He then commented whether this takes in the new circumstances of family living and mobility.

Principal Planner Patenaude said it was limited at present. He indicated that staff recognized the desire for additional length of stays. Currently the Municipal Code primarily addresses transients. He indicated that someone who stays longer than 30 days could apply for a reimbursement of the Transient Occupancy Tax (TOT).



**MINUTES OF MEETING OF THE CITY COUNCIL
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Tuesday, July 9, 2002, 8:00 p.m.**

City Manager Armas explained that there are two principles to consider. One is whether a facility has been evaluated from a standpoint of impacts to an area on a long-term basis. The second is a financing question and the TOT. He indicated that staff is aware of the income for the City based on the TOT and does not desire to compromise the City's financial situation.

Council Member Henson asked what prohibition exists to prohibit anyone from having to pay the tax because of the longer length of stay and whether there are State prohibitions against collecting the tax for residents who stay more than 30-days.

Council Member Hilson expressed concerns about the TOT as well. He commented that if a patron re-registered in the same room, would the tax still apply. He noted that the City definitions could be obsolete at this point. He then asked whether consideration was given to looking at this in a more concise manner.

City Attorney O'Toole explained that the Ordinance describes someone as a transient who stays less than 30-days in a hotel. If they were to check out after 30-days and then back in again, the tax would be reapplied. He commented that there is nothing in the State law, which would allow the City to increase that number. He commented that the City depends on the hotels to collect the tax from the patrons.

City Manager Armas explained that there was nothing in this proposal that would alter any of the residency requirements in place today. He noted that this is to safeguard against a facility being improperly converted into an apartment complex.

Council Member Hilson agreed that this was his main concern as well. He wondered whether the City of Hayward was opening the door to something that could be potentially a problem in major areas. He added that he thought this action was premature.

City Manager Armas commented that the City staff would look at the present facilities and their use permits. Any new applications would have to go through a permit process for further scrutiny. He added that this is merely defining a use and is not a specific application for a specific location.

Council Member Dowling referred to a State Law that provides for renter's amenities and rights for people who reside in a residence beyond thirty days.

City Attorney O'Toole explained that he was not sure that if you reside at a hotel longer than thirty days, you could get rights beyond the contract that you enter into with the hotel. However, State Law does provide that the transient nature of your stay is thirty days or less, and beyond this, if you stay longer, you are not subjected to the Transient Occupancy Tax.

DRAFT

Council Member Jimenez discussed the staff recommendation as well as the Planning Commission discussion. He asked how many rooms this applicant was proposing.

Principal Planner Patenaude explained that the City could not entertain an application until this zoning law was adopted to allow for such a proposal.

Council Member Ward asked whether there are any potential enforcement issues associated with the new zoning and whether other communities have enforcement measures. He expressed concern about semi-permanent residences and what recourse the City has in financing the cost of someone who is a permanent resident as opposed to a transient.

City Manager Armas explained that it could not be known immediately; however, the City of Hayward has the ability to audit periodically to make sure the City is receiving the amount due. He noted that the Conditions of Approval must include these precautions.

Principal Planner Patenaude commented that staff did an overview from other cities with regard to this proposal but it was not extensive.

Council Member Hilson asked about comments from the Planning Commission Minutes regarding comments from Dave Davenport, Extended Stay America, who said, "With a guest staying longer than 30-days, they are entitled to a credit of the tax they pay." And whether this was true. He was of the opinion that this Ordinance is premature and still much too convoluted to be considered at this time.

City Attorney O'Toole explained that they would not be entitled to any credit for the first 30-days. He noted that they should not be paying a tax past the 30th day as defined by State law.

City Manager Armas said staff would look at modifying the Ordinance so that the City will benefit as much as legally possible.

Council Member Rodriguez referred to a letter from Dianna Bogue who described her visits to various extended stay facilities in the area.

Mayor Cooper opened the public hearing at 9:08 p.m.

Maria Palos said she was speaking for 10 motels and hotels in the area. She asked those present to each introduced him/herself and what hotel they were representing. She noted that they would like to keep the Ordinance as simple as possible. They all have similar facilities to the Extended Stays, except for full kitchens. She commented that most of the hotels are business class hotels. She suggested that the City redefine and revise the TOT so that all revenues flow back into the City of Hayward. She suggested Council Members visit the various hotels. She encouraged staff not to enumerate all of the amenities.

Jason Moreno suggested a regular maintenance schedule be required for hotels in the area to



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eliminate the degradation of the facilities.

Rob Canepa, Southland Properties, said Extended Stay America could accommodate the City as much as possible, including working with the City in the financing of the TOT. He said he thinks this is a good thing for Hayward. He emphasized that this is a quality national change.

Council Member Henson asked for further information about the restrictions on the property. He also asked about the TOT and what Mr. Davenport was alluding to.

Dave Davenport continued to address the question. He elaborated that the hotel could assist in re-checking the guest to gain the TOT. He added that the average stay for a guest nationally is twenty-one days. Of the 440 properties that they own, only four- percent of the guests stay longer than thirty days. He said he was currently comfortable with the proposed Ordinance.

Mayor Cooper closed the public hearing at 9:27 p.m.

Council Member Hilson asked for a friendly amendment to the motion that directs staff to review other cities' ordinances and definitions and return when appropriate, a comprehensive revamp of the Ordinance. Both the maker of the motion and the second accepted it.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and unanimously carried to introduce and adopt the following and include the amendment by Council Member Hilson:

Introduce Ordinance 02-__, "An Ordinance Amending Section 10-1.3510 of Article I, Chapter 10 of the Hayward Municipal Code, Definition of "Hotel" and "Motel" in the Zoning Ordinance"

Resolution 02-100, "Resolution Adopting the Negative Declaration and Approving Text Change Application No. 2002-0241, David Davenport for Extended Stay America (Applicant)"

6. Formation of Eden Shores Community Facilities District No. 1

Staff report submitted by Finance and Internal Services Director Carter, dated July 9, 2002, was filed.

Finance and Internal Services Director Carter presented the staff report. He indicated that in order to complete the process following the May 28th hearing and adoption of resolutions of intention, the Council must conduct a public hearing with regard to formation of the district and also to the incurring of a bonded debt.

DRAFT

Council Member Henson asked about the tax rate for developed and undeveloped property in the district.

Mayor Cooper opened and closed the public hearing at 9:35 p.m. with no input from the public.

Council Member Hilson reiterated his opposition to the process and would continue to do so. In his opinion, this formation could put the City at risk. He noted that there is a problem with Mello-Roos regulations as only the original owners are able to determine the process.

Council Member Jimenez commended the Finance Director Carter on the report and indicated that he would be favoring the recommendation.

Council Member Dowling clarified that this formation applies strictly to the east side of Oliver and does not include the residential housing.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and carried by the following roll call vote to approve the following items:

AYES: Council Members Jimenez, Hilson, Rodriquez,
Ward, Dowling, Henson
MAYOR Cooper
NOES: Council Member Hilson
ABSENT: None
ABSTAINED: None

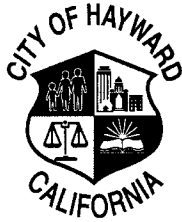
Introduce and Adopt Ordinance 02-06, "An Ordinance Amending Section 10-1.3510 of Article I, Chapter 10 of the Hayward Municipal Code, Definition of "Hotel" and "Motel" in the Zoning Ordinance"

Resolution 02-104, " A Resolution Authorizing the Issuance and Sale of Special Tax Bonds, and Approving and Authorizing Related Documents and Actions"

Resolution 02-105, "Resolution Determining the Necessity to Incur Bonded Indebtedness"

Resolution 02-106, "Resolution Calling Special Election "

Resolution 02-107, "Resolution Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien"



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Resolution 02-108, "Resolution Authorizing the Issuance and Sale of Special Tax Bonds, and Approving and Authorizing Related Documents and Actions "

LEGISLATIVE BUSINESS

7. Appropriation of Funds for the Mission-Garin Annexation Study

Staff report submitted by City Manager Armas, dated July 9, 2002, was filed.

City Manager Armas indicated that staff was looking for further clarification from the standpoint of the property owners to make sure staff properly understood the alternative that they were advancing. Given the information provided, he said staff would add the fourth alternative to the environmental review.

Mayor Cooper opened the public hearing at 9:39 p.m.

Joe Callahan said they agree with staff on this issue.

Kindra Mendall said she was pleased to hear that a full environmental document would be conducted. She expressed concern that alternatives are being agreed upon without input from the residents in the area. She asked for equal footing with the developers. She asked that no decision on alternatives be made until after the public scoping period more than thirty days from now.

Mimi Bauer thanked members for responding to her recent email and clarifying her concerns. She wondered why there was a need for some alternatives. She wanted to know whether the community would have any input into the alternative process at all and suggested Council holding off on a vote until after the community meeting on July 17th.

Mayor Cooper noted the importance of public input into the process.

Evelyn Cormier discussed her concerns with how the development will occur without neighborhood input. She wanted assurance that this was merely a procedural step in the process and that the community will still have the opportunity to be heard.

Mayor Cooper closed the public hearing at 9:58 p.m.

Council Member Ward said he concurred with moving on the motion at this meeting. He then thanked members of the community for their interest and indicated that it is Council's intention to listen carefully to the community. He then moved the item.

DRAFT

Council Member Dowling asked for a clarification from staff regarding any ideas and comments made by the residents at the meeting of the 17th and whether they could still be included in the final alternative.

City Manager Armas clarified that the environmental impact report would include everything from a low-level of development to the more dense. Bracketing in this fashion includes the full range of impacts to the area. Within these ranges, anything brought forward could be included.

Council Member Dowling stressed the importance of keeping the seventy people who have expressed an interest informed of every step of the process.

Council Member Hilson commented that even though he understood the bracketing process, he wondered whether there was something to come in the community meeting that was unique and whether it would be precluded from being an alternative.

City Manager Armas said it would not.

Council Member Rodriquez complimented the members of the Fairway Park community for their diligence in protecting the environment. She said she would like to see other neighborhoods come in and express their concerns. It is an excellent monitoring method. Like labor and business when they work together, they build up trust. She urged other community leaders to come to meetings and talk with Council Members.

Council Member Henson again thanked everyone for attending the meeting. He noted this action does not preclude any further consideration on community plans. He commented on the openness of the process.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to adopt the following:

Resolution 02-109, "Resolution Amending Resolution 02-084, as Amended, the Budget Resolution for Fiscal Year 2002-2003, Relating to an Appropriation of Funds from the General Fund, Fund 100 to the Mission-Garin Area Annexation Study, Fund 1001501 4229-004"

COUNCIL REPORTS

Council Member Dowling reported on a conference he attended last month in Miami that was sponsored by the Congress of New Urbanism. He cited several reports and sessions he attended, including one on "Walkable Cities"; a "Mean Streets" report, a session on childhood obesity as children are walking less, as well as transit oriented development; other sessions that he attended were about taming urban highways and making first-ring suburbs more habitable. Other



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information was developed regarding schools.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 9:58 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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